



OFFICE OF
INSURANCE COMMISSIONER

In The Matter Of

BALBOA INSURANCE COMPANY, and
MERITPLAN INSURANCE COMPANY

Authorized Insurers

Order No. D07-313

CONSENT ORDER
LEVYING A FINE

To: Balboa Insurance Company
3349 Michelson Drive, Suite 200
Irvine, California 92612-8893

Meritplan Insurance Company
3349 Michelson Drive, Suite 200
Irvine, California 92612-8893

The Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and having reviewed the official records and files of the Office of the Insurance Commissioner ("OIC"), makes Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT:

1. Balboa Insurance Company (herein "Balboa") and Meritplan Insurance Company (herein "Meritplan") are authorized insurers (herein collectively referred to as the "Companies") writing insurance in the State of Washington. The Companies' lines of business include various forms of commercial and personal insurance.
2. The Office of the Insurance Commissioner (herein "OIC") conducted a market conduct examination of the Companies' operations from July 1, 2004 through June 30, 2005.
3. After conducting the Companies' market conduct examination, the OIC examiners prepared a report of their findings and conclusions (herein "the Report"). The Insurance Commissioner adopted the Report by "Findings, Conclusions, and Order Adopting Report of Market Conduct Examination," Order No. G 06-65, entered December 4, 2006, which Order is final. The Report found the following facts to be true during the period covered, and these facts are hereby also found as true:
 - a. Some of the Companies' business documents identified "Balboa Life and Casualty" (the group name that included Balboa Insurance Company, Newport Insurance Company and Meritplan Insurance Company), and also identified the actual insuring Company's correct legal name elsewhere on the documents. Some of the Companies' business

documents identified the Companies' group name instead of the actual insuring Company's correct legal name, or identified the wrong insurer. The documents at issue included the following:

- (i) Three (3) claim files contained correspondence and a release that identified a group name instead of the insurer or identified the wrong insurer from the Companies.
- (ii) Eight (8) policy declaration pages showed both "Balboa Life & Casualty" and "Balboa Insurance Company." These forms listed both the group name and the company name, but did not clearly identify which was the insuring entity's correct legal name.
- (iii) Fifty (50) cancellation or non-renewal notices had both "Balboa Life & Casualty" and "Balboa Insurance Company" on the documents. These documents did not clearly identify which was the group name and which was the insurer's legal name.

Subsequently, the Companies changed their affiliated group name to the "Balboa Insurance Group," eliminating the possibility of identifying "Balboa Life and Casualty" as a Company name, and also changed their logo.

- b. Four hundred sixty-five (465) policies were written by two agencies for which the Companies had not filed written notices of appointment at the time of solicitation.
- c. After Balboa acquired four thousand three hundred and ninety-three (4,393) homeowner policies from National Merit Insurance Company ("National Merit") in 2004, Balboa failed to follow filed rates and rules for setting rates in one thousand four hundred and ninety-nine (1,499) policies, as follows:
 - (i) In one thousand one hundred and twenty-five (1,125) instances, Balboa did not follow the filed rules by using a default dwelling square footage figure, resulting in homes either being undervalued or overvalued because the incorrect value from the rate table was used.
 - (ii) In three hundred and seventy-four (374) instances, Balboa did not follow the filed rating plan. In these instances, where a certain coverage value created a differential between National Merit and Balboa that was either more than 30% or more than \$50,000 in value, Balboa made a decision to adjust either the premium or the limits over a period of time. Because this was not included in the filed rate plan, Balboa used an unfiled rate plan for the policies processed in this manner.

CONCLUSIONS OF LAW:

1. By generating 61 business documents which provided the group name instead of the actual insurer's correct legal name, identified the wrong insurer, and named multiple entities in such a way as to render it at least potentially confusing and misleading as to the actual insurer's correct legal name, the Companies violated RCW 48.05.190(1);
2. By writing 465 policies through two agencies for which the company had not yet filed written notices of appointment, the Companies violated RCW 48.17.160(1) and WAC 284-17-420(1); and
3. By issuing 1,125 property valuations based on rules for rates other than what was on file, and 374 policies whose rates were not based on filed rate plans, the Companies violated RCW 48.19.040(1) and (6).

CONSENT TO ORDER:

The Companies, acknowledging their duty to comply fully with the applicable laws of the State of Washington, consent to the following in consideration of their desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration of the Companies' payment of a fine, and upon the Companies fully carrying out their obligations under the Compliance Plan attached hereto as Exhibit A, and upon such terms and conditions as are set forth below.

1. The Companies consent to the entry of this Order, waive any and all hearing rights, and further administrative or judicial challenges to this Consent Order.
2. By agreement of the parties, the Insurance Commissioner will impose a fine of Seventy Four Thousand Dollars (\$74,000) and suspend Thirty Thousand Dollars (\$30,000) of that, subject to the following conditions:
 - a. Within thirty (30) days of the entry of this Order, the Companies pay Forty Four Thousand Dollars (\$44,000).
 - b. The Companies commit no further violations of the statutes and regulations that are the subject of this Order for a period of two (2) years from the date this Order is entered, and also fully carry out their obligations under the Compliance Plan attached hereto as Exhibit A.
 - c. The Companies understand and agree that any future failure to comply with the statutes and regulations that are the subject of this Order constitutes grounds for further penalties, which may be imposed in direct response to further violation, in addition to the imposition of the suspended portion of this fine.
 - d. The suspended portion of this fine will be imposed at the sole discretion of the Insurance Commissioner according to the conditions as set forth above, without any right to hearing, appeal, or advance notice.

CONSENT ORDER

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3. The Companies' failure to timely pay the unsuspended portion of the fine and to adhere to the conditions set forth herein shall constitute grounds for revocation of the Companies' Certificates of Authority, and shall result in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

EXECUTED and AGREED this 11 day of December, 2007.

BALBOA INSURANCE COMPANY

By: Ronald Closser

Printed Name: Ronald Closser

Typed Corporate Title: Executive Vice-President

MERITPLAN INSURANCE COMPANY

By: Ronald Closser

Printed Name: Ronald Closser

Typed Corporate Title: Executive Vice-President

ORDER OF THE INSURANCE COMMISSIONER

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

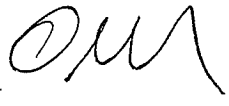
1. Balboa Insurance Company and Meritplan Insurance Company ("the Companies") shall pay a fine in the amount of Seventy Four Thousand Dollars (\$74,000), of which amount the sum of Thirty Thousand Dollars (\$30,000) is suspended subject to the conditions set forth in the "consent to order" section above, including the conditions that the Companies fully comply with the laws and regulations of the State of Washington which are the subject of this Order for the next two years, and the further condition that the Companies fully carry out their obligations under the Compliance Plan attached hereto as Exhibit A.
2. The payment liability and compliance obligations of Balboa Insurance Company and Meritplan Insurance Company under this Order are joint and several.
3. The Companies shall comply with and carry out the Compliance Plan set forth in Exhibit A hereto, which Compliance Plan is hereby incorporated into this Order by reference as though fully set forth herein; and
4. The Companies' failure to timely pay the unsuspended portion of the fine and to adhere to the conditions set forth herein shall result in the revocation of the Companies' Certificates of

Authority and in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington

ENTERED at Tumwater, Washington, this 19 day of December, 2007.

MIKE KREIDLER,
Insurance Commissioner

By:



Alan Michael Singer
OIC Staff Attorney
Legal Affairs Division

Exhibit A to Consent Order D07-313
WASHINGTON COMPLIANCE PLAN

Balboa Insurance Company
Meritplan Insurance Company

Introduction

This Exhibit outlines a compliance plan to ensure that the Washington business written by the Balboa Insurance Company and the Meritplan Insurance Company (hereinafter referred to collectively as the "Company") is in compliance with Washington Insurance Laws and Regulations. The plan encompasses two component parts: administrative actions and internal audits with reports to the OIC. This Exhibit is attached to a Consent Order as "Exhibit A" to that Order. This Exhibit is incorporated into that Order, and the obligations of the Company under this Exhibit constitute obligations under the Consent Order to which it is attached.

Effective Date of Plan

The Company has already undertaken the Administrative Actions listed in Part 1 below. The Company's audits described in Part 2 below will cover a two year period, commencing the date the Consent Order is entered.

Part 1. Administrative Actions

As a result of the Market Conduct Examination that covered the period 7/1/04 through 6/30/05 ("Exam"), the Company determined that additional administrative actions and direction for its staff were necessary for ensuring compliance with certain matters that arose in the Exam. The Company has taken the following actions:

1. Prior to OIC's Exam, the Company changed its name to Balboa Insurance Group, and changed the logo. The Company also made some modifications to the sizing and color of the group name versus the insuring company name.
2. The Company has incorporated and appointed Arrowhead General Insurance Agency ("Arrowhead") into their operations after structuring a strategic alliance with Arrowhead to offer the Company's products and to perform certain policy administrative services. The Company also has in place a comprehensive audit process including on-site review to ensure that Arrowhead sub-producers are licensed and appointed, where necessary.
3. The Company implemented an ongoing National Merit Insurance Company ("NMIC") renewal re-underwriting process for NMIC rollover policies having renewal dates on or after 9/1/06, addressing such matters as proper square foot verification, replacement cost verification, and protection device verification.

Part 2. Internal Audits

In order to assess the effects of the Company's Administrative Actions outlined above, and to properly address the violations found during the Exam, the Company will perform four consecutive audits of its compliance within categories of Washington statutes and regulations. The Company will perform these audits over the course of the above-referenced two year period. The Company will report audit results to OIC four times, each following the completion of each consecutive six-month audit. The audits will cover three categories of violations found during the Exam: (1) Agent Activities—Use of Appointed Agents, (2) General – Doing Business in the Company's Own Name, and (3) Rate and Form Filing—Issuance of Policies Only in Accordance with Filed Rates. Audits will be performed consistent with the "Internal Audits Plan" table contained herein (see "Attachment 1").

The Company will summarize and report its audit results using the "Internal Audit Results" form also contained herein (see "Attachment 2"). As indicated in Attachment 2, the Company will undertake appropriate remedial action for each exception found within any audit. The Company is also invited and encouraged to supplement completed forms with other reports, forms, tabulations, data summaries, or other information-containing media that help relate the audit results to OIC in a meaningful manner. All audit results, forms, summaries, and other materials will be completed and provided to OIC within forty-five (45) calendar days of the end of each six-month audit period. In addition, when the Company submits to OIC the results of the first audit, the Company will also include a separate audit addendum explaining and describing: (1) the Company's history of similar violations in Washington and elsewhere; (2) other state insurance regulators' responses to the Company's similar violations, including any fines or monetary penalties previously assessed elsewhere; (3) each corrective action the Company has previously taken in Washington and elsewhere to remedy its history of similar violations; (4) a measurement of the success or failure of each corrective action the Company has previously taken to remedy its history of similar violations; and (5) verification that the Company's current efforts under this compliance plan are expected to prevent similar violations from occurring in all states where the Company conducts business. All audit reports, completed Internal Audit Results forms, summaries, and other related materials, along with any questions, will be made to OIC through the following:

ATTN: Ms. Christine Tribe
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255
(360) 725-7061
ChrisT@OIC.WA.GOV

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Attachment 1 to Exhibit A
WASHINGTON COMPLIANCE PLAN

Balboa Insurance Company
Meritplan Insurance Company

AUDIT CATEGORY	REGULATION OR STATUTE CITED	TITLE OF PERSON AUDITING	ITEMS REVIEWED	TIME PERIOD REVIEWED	SAMPLING TECHNIQUE	WHEN STARTED	HOW DONE	FOLLOW-UP
Agent Activities—Use of Appointed Agents	RCW 48.17.160(1) and WAC 284-17-420(1)	TBD		SIX MONTHS				
General – Doing Business in the Company's Own Name	RCW 48.05.190(1)	TBD		SIX MONTHS				
Rate and Form Filing—Issuance of Policies Only in Accordance with Filed Rates	RCW 48.19.040(1) and (6)	TBD	Have overcharged consumers been refunded with interest?	SIX MONTHS				Have overcharged consumers been refunded with interest?

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Attachment 2 to Exhibit A

**Balboa Insurance Company
Meritplan Insurance Company
Internal Audit Results**

State of Washington Compliance Plan

Audit category: _____

Name of auditor: _____

Title of auditor: _____

Auditor's phone or e-mail: _____

Time period reviewed: _____

Date audit completed: _____

Date by which this form
is to be completed: _____

Date by which next audit
is to be completed : _____

List the specific items reviewed:

(For example, if policies were reviewed, list the policy numbers. If form filings were reviewed, list their company identification numbers. If claim files were reviewed, list their claim numbers):

Items were reviewed for compliance with the following statutes and/or regulations of the State of Washington:

Number of exceptions found ("Exceptions" is defined as conduct not in compliance with the State of Washington statutes and regulations listed above):

If any exceptions were found, list the policy number(s) and describe the Exception(s):

If any exceptions were found, describe the remedial action(s) that will be taken and the date by which they will occur:

Signature: _____

Date: _____